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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues and questions in relation to the combined seventh and eighth periodic reports of Germany

Constitutional, legislative and institutional framework

1. It is indicated in the combined seventh and eighth periodic reports of Germany (CEDAW/C/DEU/7-8) that largely uniform results have been achieved in the implementation of areas of the Convention where federal competencies are concerned. However, it is specified that, in areas that are under the exclusive responsibility of the Länder (e.g. education), each of them is entitled to find its own way of implementing the Convention (para. 4).[1] Please provide information as to whether any specific measures have been taken to address potential disparities in the implementation of the Convention across the different Länder and municipalities. Please indicate whether public officers, lawyers, judges and all other actors of the justice system are systematically trained on the Convention and the Optional Protocol thereto. Please indicate whether the Convention has been invoked in courts and, if it has, the number, nature and outcome of the cases.

2. It is indicated that the General Equal Treatment Act protects women against all forms of discrimination on various grounds, including sex, and (sexual) harassment in the workplace and in business, among other things. It does not, however, apply to the domestic and private spheres (para. 5). In accordance with the State party's obligations under articles 1 and 2 of the Convention and in line with Sustainable Development Goal 5.1, to end all forms of discrimination against all women and girls everywhere, please indicate whether steps are envisaged to ensure that the broad scope of the Act is used effectively to eliminate discrimination against women

Note: The present document is being circulated in English, French and Spanish only.

[1] Unless otherwise indicated, paragraph numbers refer to the combined seventh and eighth periodic reports of the State party.

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in all areas covered by the Convention, including in the domestic and private spheres. Please also provide information on the impact of the shift in the burden of proof. Has there been an increase in the number of complaints of discrimination based on sex or gender since the Act entered into force in August 2006? Please provide further details on the scope, content and application of the Federal Act on Gender Equality of 2001 (para. 18).

National machinery for the advancement of women

3. It is indicated that the adoption of the General Equal Treatment Act led to the creation of the Federal Anti-Discrimination Agency (ADS) within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) (paras. 7 and 11). Given that ADS does not have an explicit mandate to receive and proceed with complaints (paras. 8-10), please explain how victims of discrimination coming to it are assured of obtaining remedies or gaining access to avenues of redress. Please indicate whether measures are being contemplated to extend the mandate of ADS to include the power to investigate complaints brought to its attention and to bring proceedings before the courts. Please also indicate whether measures are envisaged to establish anti-discrimination agencies in all Länder in order to ensure the adequate coordination of gender equality policies and mechanisms at both the central and subnational levels. It is also indicated that ADS has sufficient human and financial resources allocated each year under a separate chapter of the budget plan of BMFSFJ (para. 11). Please provide further details on such resources. Please also provide information on the proportion of the national budget allocated to the machinery for the advancement of women.

4. Please indicate whether efforts have been made by the State party to introduce effective monitoring and accountability mechanisms in the context of its system for gender mainstreaming, and to include sanctions for non-compliance in such mechanisms (para. 18). Please also indicate whether measures have been taken to introduce a gender budgeting approach encompassing all ministries and requiring each of them to carry out a gender equality assessment of its specialized budget area and to report thereon in its budget proposals. Are steps envisaged to integrate gender budgeting into the new fiscal plan 2018-2023 and to reinstall a cross-ministry working group to coordinate and ensure the implementation of gender budgeting (para. 19)?

Extraterritorial obligations

5. According to information before the Committee, there are several areas in which the operation of German companies abroad has a negative impact on the human rights of women. Please provide information on the regulatory framework which ensures that the operation of German industries and companies does not negatively affect human rights or endanger environmental, labour and other standards, especially those relating to women's rights. Please also indicate the steps taken: (a) to integrate a gender dimension into strategic dialogues with countries purchasing German arms; (b) to conduct gender-sensitive risk assessments, in accordance with the Arms Trade Treaty, in order to mitigate the potentially negative impact on women's rights of arms transfers to countries marked by armed conflict or at risk of such conflict; and (c) to protect the rights of all women and girls, in particular in rural areas, in international food value chain production, as well as in the context of the State party's development cooperation policies and programmes.

Temporary special measures

6. It is indicated that the Committee's opinion is not shared that article 4 of the Convention obligates the State party under international law to introduce certain specific special measures, and that Germany made use of its margin of appreciation to implement temporary special measures in the period under review and will continue to do so in the future (paras. 21 and 22). In the light of taking note of the opinion of the State party on the use of temporary special measures in accordance with article 4 of the Convention, and of general recommendation No. 25 (2004) on the subject, please provide information on other measures envisaged to achieve substantive gender equality in all areas covered by the Convention.

Stereotypes and harmful practices

7. Please provide updated information on the measures taken to eliminate stereotypical images and attitudes regarding the roles of women and men in the mass media, in the family and in society (paras. 23-29) and indicate how those efforts are coordinated among the Länder. Please indicate the number of complaints relating to sexist advertising received and investigated by the German Advertising Council since 2013, and the sanctions levied against the media. Please also indicate whether steps were taken to further extend the pilot project on anonymized application procedures to all Länder (para. 31). Please indicate whether targeted programmes to encourage further diversification of the educational choices of boys and girls and the enhanced sharing of family responsibilities exist in all Länder. Please specify the measures taken to address the stereotyped portrayal in the media of women, including women belonging to minority groups and migrant women, as well as transgender persons (paras. 32-36).

8. It is indicated that girls and women, in particular those with a migration background, are vulnerable to becoming victims of early/child and forced marriage (para. 120). Please provide information on the results achieved to date in implementing the Act to Combat Forced Marriage and to Better Protect Victims of Forced Marriage and to Amend Other Provisions of Asylum and Residence Act of 2011 (para. 189). It is also reported that collecting data on female genital mutilation is extremely difficult, given that it needs to be reported by those affected, their legal representatives or third parties (para. 137). Please indicate what measures are being contemplated to overcome this difficulty. Please also elaborate on the specific prevention and awareness-raising efforts undertaken to tackle the issue of female genital mutilation (paras. 137-139).

9. Reference is made to the amendment of 2013 to the Civil Status Act under which parents do not need to enter the sex of the child when registering a birth if it cannot be unequivocally established (para. 202). It is also indicated that that amendment will be evaluated and possibly extended (para. 203), on the basis of the work of the interministerial working group on intersexuality/transsexuality (para. 204). Please indicate whether the State party is planning: (a) to ensure the effective application of legal and medical standards following the best practice of the people concerned or their legal representatives granting informed consent to medical and surgical treatment of intersex people; (b) to investigate incidents of surgical and other medical treatment of intersex people without their effective consent and adopt legal provisions in order to provide redress to the victims of such treatment, including adequate compensation; (c) to educate and train medical and psychological

professionals on the range of sexual, and related biological and physical, diversity; and (d) to properly inform patients and their parents of the consequences of unnecessary surgical and other medical interventions for intersex people.

Violence against women

10. The Committee notes the recent adoption in the Bundestag of a new law, which introduced an amendment to section 179 of the Criminal Code and closes gaps in the current criminal law relating to sexual offences, given that it places the lack of consent of the victim at the centre of the legal definition of rape and criminalizes the abuse of persons who are incapable of resistance owing to mental or physical disabilities or "a profound consciousness disorder". Please inform the Committee as to whether the newly adopted law provides sufficient protection to victims who are not capable of conveying their objection to the act. Please also provide information on the measures envisaged to translate the newly adopted law into practice, including public awareness campaigns and training activities and programmes for the judiciary, public and law enforcement officials, health-service providers and social workers. Please also update the Committee on any other steps taken towards the enactment of comprehensive legislation that addresses all forms of violence against women in all settings. In addition, please indicate the steps taken to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

11. Mention is made of numerous measures taken to address violence against women (paras. 112-115), in particular the adoption in 2007 of a second action plan to combat such violence. Please provide information on the human, technical and financial resources allocated for its implementation. Please also indicate its current status of implementation and whether impact assessments have been carried out at the national, Länder and municipal levels. If so, please indicate the results. Please also provide updated data, disaggregated by age, sex, type of offence and relationship between the victim and the perpetrator, on reported and investigated cases of violence against women, including domestic and sexual violence, and on convictions in those cases. Please also indicate the sanctions imposed on perpetrators.

Trafficking and exploitation of prostitution

12. According to the national situation report on trafficking in human beings published in 2014 by the Federal Criminal Police Office, the number of investigations into trafficking in persons for the purpose of sexual exploitation is generally relatively low, which is due, as is assumed in that report, to problems with the conduct of investigations connected with the difficulty of putting the section of the Penal Code regulating this criminal offence into practice, so that the police use offences that are easier to deal with as a basis for investigation. Please inform the Committee whether the State party envisages making any legal amendments, including to section 232 of the Penal Code, on trafficking in persons for the purpose of sexual exploitation, to facilitate prosecution. Please also provide information on the measures taken to facilitate the identification of victims of trafficking for the purpose of sexual exploitation and victims of forced prostitution, and to bring perpetrators to justice. In particular, please indicate whether the State party has taken or envisages taking any measures: (a) to increase the human, technical and financial resources allocated to investigations, including the comprehensive

collection of evidence, into alleged cases of trafficking and forced prostitution; (b) to systematically increase the presence of police, including undercover police, in the so-called red-light scene to initiate investigations independently of criminal complaints lodged by victims; and (c) to establish, or intensify existing, collaboration with victim support counsellors and to ensure that they are adequately resourced. Furthermore, please provide information on any measures taken to protect female asylum seekers, in particular unaccompanied girls, from being trapped in or forced into prostitution, and to provide victims with comprehensive support services.

13. Please provide an update on the status of the amendment to the Prostitution Act (2002), which provides for the need to obtain a licence for places of prostitution, a background check for those operating prostitution businesses, and minimum health and safety requirements for women engaged in prostitution (para. 152). Please also provide information on measures currently in place to prevent the exploitation of women and girls engaged in prostitution and improve their working conditions, including the outcome of the expert event on the theme "Regulation of prostitution and places of prostitution: a practicable way to improve the situation of prostitutes and combat human trafficking?" (para. 151). Please indicate the results achieved by the model project to support women wishing to leave prostitution, as well as programmes and strategies developed by the Länder for preventing women from entering prostitution, supporting and advising those engaged in prostitution and encouraging those wishing to leave prostitution (paras. 151 and 153). In addition, please provide updated data on women engaged in prostitution, including clandestine prostitution, and on victims of trafficking for the purpose of sexual exploitation since 2002. Please indicate what specific measures have been taken to reduce the demand for prostitution.

Participation in political and public life

14. Please provide information on any specific and proactive measures taken, in addition to the adoption of the Act on the Equal Participation of Women and Men in Leadership Positions in the Private and the Public Sector, to accelerate an increase in the representation of women in political and public life, in particular on municipal councils and in mayoral positions, in senior civil service administration (paras. 49-57), in management and on company boards (para. 53), as well as in high-ranking positions in health institutions (para. 167). Please also provide updated data on the share of women in the diplomatic service and international organizations, as well as in the judiciary at all levels (paras. 55 and 56). Please indicate whether the State party has established benchmarks and specific timetables to achieve those goals. Please also provide information on the participation of women from an immigrant background in decision-making positions. Furthermore, the Committee notes that the State party introduced a gender quota of 30 per cent for supervisory boards. Please indicate whether the State party envisages any measures towards introducing a comparable gender quota within higher-level management and whether any measures have been taken to encourage hiring managers to hire women for leadership positions.

Employment and economic empowerment

15. Please provide information on the unemployment rate for women, on women in precarious work and on the employment rate for migrant women and women with

disabilities. According to data of the Federal Statistical Office, the gender wage gap between men and women persists, being particularly high in western Germany (22 to 23 per cent on average). Please provide specific information on the full range of measures being taken to close the gap. The Committee has also been informed that women constitute the majority of employees working in so-called mini-jobs and are faced with precarious living conditions and increasing old age poverty. Please: (a) provide data on the number of women working in mini-jobs, disaggregated by age and by number of mini-jobs in which each woman is working; (b) indicate the measures taken or envisaged by the State party to improve access to social benefits under the mini-job scheme; and (c) indicate whether the State party is considering gradually integrating the mini-job scheme into a regular scheme and ensuring that all employees in the State party earn at least the minimum wage. With reference to the information given in the report (paras. 85-88), please supply updated information on the measures taken to increase the support provided to single mothers and women heads of household. The Committee has received information that the State party's caregiving system relies to a considerable extent on unpaid family care work, which is predominantly carried out by women, and that professional care work, which is also predominantly carried out by women, is significantly underpaid. Please indicate whether the State party is taking any measures towards: (a) increasing access by families to professional care; (b) improving labour conditions for professional caregivers; and (c) ensuring that unpaid family care work is factored into social benefits.

Health

16. Please indicate whether age-appropriate education on sexual and reproductive health and rights is provided systematically in all Länder. Please also provide information on the measures, apart from conferences (para. 165), taken by the Federal Ministry of Health (BMG) to integrate a gender perspective into all health sector programmes, services and reforms, in line with the Committee's general recommendation No. 24 (1999) on article 12 of the Convention (women and health), so that all women and men in every part of the territory have equal access to appropriate and adequate health services, in particular sexual and reproductive health services. Please indicate what measures have been taken to increase the percentage of women in high-level positions in all fields of health care (para. 167), including by implementing effectively the Act on the Equal Participation of Women and Men in Leadership Positions in the Private and the Public Sector.

Refugee and asylum-seeking women

17. The Committee acknowledges that the State party's policy on refugees and asylum seekers has had a positive impact on women and girl refugees and asylum seekers. Please provide information on measures taken to accelerate their integration in the State party. In line with the Committee's general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, please indicate measures taken to ensure that refugee claimants and migrants in irregular situations, especially women and girls, are detained only as a measure of last resort and for a reasonable period. Please also provide recent statistical data, disaggregated by sex and geographical location, on refugees and asylum seekers, the number of facilities available to them and the quality of those facilities, as well as information on asylum claims based on

gender-related persecution. Please also supply information as to whether training and guidelines are provided to law enforcement officials and border guards on how to deal with gender-related persecution and provide protection to refugee and asylum-seeking women and girls.

Women with disabilities

18. Mention is made of a study published by BMFSFJ entitled "The situation and burdens of women with impairments and disabilities in Germany" which indicates that women with disabilities are twice as likely as the average female population to suffer discrimination and physical violence (para. 140). Please indicate whether measures, including temporary special measures, are contemplated to develop and implement programmes for women and girls with disabilities, in particular migrant and refugee women and girls with disabilities, to eliminate discrimination in all areas of life. Please indicate whether any steps have been taken to adopt a comprehensive and effective strategy, with adequate funding, to ensure that women and girls with disabilities are effectively protected against violence in all public and private settings. Please also provide information on measures taken to systematically collect data and statistics on the situation of women and girls with disabilities, with indicators to assess intersecting discrimination.

Migrant women

19. The Committee notes the measures taken to encourage the integration of migrant women in the State party (paras. 193-195). In the light of the current social and political context, please provide information on measures taken or envisaged to combat all forms of discrimination against migrant women and to ensure their adequate access to training and employment, social security and social services, housing, health care and education. The State party acknowledges that many migrant women do not appear to benefit from measures against domestic violence or to receive information about possible protection, and states that it is important to make the available help and support more accessible to migrant women (para. 129). Please provide information on the measures taken or envisaged to ensure that migrant women receive adequate protection and assistance in cases of domestic violence. The Committee also notes that the State party has provided data on the employment rate for women with a migration background from 2007 to 2012 (para. 194). Please provide updated data on the employment rate and working conditions of migrant women in the State party. Please also indicate whether any measures are being contemplated to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Marriage and family relations

20. It is indicated that the amendment to German divorce law in 2008, which establishes that a divorced spouse may demand maintenance from the other for the care and upbringing of a child for at least three years after the child's birth, is based on the principle of self-reliance (para. 177) and that the Federal Government is aware of the impact of the 2008 amendment on all practitioners (para. 180). Please indicate whether any impact assessment of German divorce law has been conducted since 2008. If so, please indicate the results.